

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

DARYL KEITH HOLTON

Petitioner,

v.

1:05-cv-202

RICKY BELL, Warden,

Respondent.

ORDER

This is a petition for the writ of habeas corpus pursuant to 28 U.S.C. §2254; the petitioner is incarcerated on death row. The matter came before the court for a hearing on pending motions, including the respondent's motion to dismiss the habeas corpus petition as unauthorized. For the reasons stated by the court from the bench, the respondent's motion to dismiss is **GRANTED**. All other pending motions are **DENIED** as **MOOT**. A certificate of appealability **SHALL ISSUE** as to the court's finding that the Federal Defender Services has failed to demonstrate, under the standard established in *Harper v. Parker*, 177 F.3d 567, 572 (6th Cir. 1999), reasonable cause to believe that Mr. Holton is not competent to make a rational decision to dismiss his pending federal habeas corpus petition.

Dr. Bruce G. Seidner, the psychological expert appointed by the court in this action, should promptly file with the court his bill for services rendered. As soon as the court has approved such bill, the State of Tennessee and the Federal Defender Services of Eastern Tennessee, Inc., shall share equally the costs of Mr. Holton's evaluation by Dr. Seidner.

E N T E R:

s/ Thomas W. Phillips
United States District Judge